

Regular Session, 2009

HOUSE BILL NO. 43

BY REPRESENTATIVE GEYMANN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CONTROLLED SUBSTANCES: Provides for proof of a valid prescription as a defense to violations of the Uniform Controlled Dangerous Substances Law

1 AN ACT

2 To enact R.S. 40:991 and Code of Criminal Procedure Article 532(10), relative to controlled
3 dangerous substances; to provide for proof of a valid prescription as a defense
4 against a violation of the Uniform Controlled Dangerous Substances Act; to provide
5 for a time period for claiming the prescription as a defense; to provide that a valid
6 prescription is a ground for a motion to quash in criminal prosecution; and to provide
7 for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:991 is hereby enacted to read as follows:

10 §991. Prescription for controlled dangerous substances; proof of valid prescription;
11 time period for raising defense; notice to prosecution

12 A. An individual who claims possession of a valid prescription for any
13 controlled dangerous substance as a defense to a violation of the provisions of the
14 Uniform Controlled Dangerous Substances Law shall have the obligation to produce
15 sufficient proof of a valid prescription to the appropriate law enforcement agency.

16 B.(1) After an arrest for or after being charged with unlawful possession of
17 a controlled dangerous substance, the individual who claims to possess a valid
18 prescription for any controlled dangerous substance shall have fifteen days after
19 arrest or charge to produce a valid prescription for the substance to the appropriate
20 law enforcement agency.

1 (2) As used in this Section, "controlled dangerous substance" shall have the
2 same meaning as provided in R.S. 40:961(7) and "prescription" shall have the same
3 meaning as provided in R.S. 40:961(33).

4 C. Any individual who claims the defense of a valid prescription for any
5 controlled dangerous substance shall raise this defense pretrial, through a motion to
6 quash in accordance with the time limitations and requirements of the Louisiana
7 Code of Criminal Procedure Articles 521 and 532, and shall provide notice of this
8 defense to the prosecution at least fifteen days before trial.

9 Section 2. Code of a Criminal Procedure Article 532(10) is hereby enacted as
10 follows:

11 Art. 532. General grounds for motion to quash

12 A motion to quash may be based on one or more of the following grounds:

13 * * *

14 (10) The individual charged with a violation of the Uniform Controlled
15 Dangerous Substances Law has a valid prescription for that substance.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB No. 43

Abstract: Provides with respect to raising the defense of a valid prescription for controlled dangerous substances violations.

Present law provides for the Uniform Controlled Dangerous Substances Law and provides for penalties for violations of that law.

Proposed law retains the provisions of present law and provides that an individual who claims possession of a valid prescription for any controlled dangerous substance as a defense to a violation of the provisions of the Uniform Controlled Dangerous Substances Law shall have the obligation to produce sufficient proof of a valid prescription within 15 days to the appropriate law enforcement agency.

Proposed law provides for time periods for claiming a valid prescription as a defense to violations of the Uniform Controlled Dangerous Substances Law.

Present law provides for grounds for a motion to quash.

Proposed law retains the provisions of present law and adds as a grounds for a motion to quash that the defendant who is charged with a violation of the Uniform Controlled Dangerous Substances Law has a valid prescription for that substance.

Proposed law provides that the defendant shall provide notice of his intention to use the defense of a valid prescription to the prosecution at least 15 days prior to trial.

(Adds R.S. 40:991 and C.Cr.P. Art. 532(10))